

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & JOHN

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| |) | |
| FIRSTBANK PUERTO RICO, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil No. 2005-27 |
| v. |) | |
| |) | |
| CARIBBEAN ISLAND ADVENTURE, INC., |) | |
| COMMONWEALTH INVESTMENTS |) | |
| CORPORATION, RICHARD C. SINGERLE, |) | |
| KAREN A. SINGERLE, JAMES E. |) | |
| SAMUELS, LYNDIA S. COLLINS, EGBERT |) | |
| HENDRIK OSKAMP, and BOOPY |) | |
| EXCAVATING, INC., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ATTORNEYS:

Gregory Hodges, Esq.

St. Thomas, U.S.V.I.

For the plaintiff, FirstBank Puerto Rico,

Ronald W. Belfon, Esq.

St. Thomas, U.S.V.I.

*For defendants Caribbean Island Adv.; Commonwealth
Investments Corp; Richard Singerle; Karen Singerle,*

Susan Bruch-Moorehead, Esq.

St. Thomas, U.S.V.I.

For defendant James E. Samuels,

Leigh F. Goldman, Esq.

St. Thomas, U.S.V.I.

For defendant Lynda S. Collins,

William S. McConnell, Esq.

St. Thomas, U.S.V.I.

For defendant Egbert Hendrik Oskamp,

Nancy D'Anna, Esq.

St. John, U.S.V.I.

For defendant Boopy Excavating, Inc.

ORDER

GÓMEZ, C.J.

Before the Court is the motion of defendant Lynda S. Collins ("Collins") to correct this Court's Judgment of July 30, 2007.

FirstBank Puerto Rico ("FirstBank") initiated the above-captioned action for debt and foreclosure against defendants Caribbean Island Adventure, Inc., Commonwealth Investments Corporation, Richard C. Singerle and Karen A. Singerle, James E. Samuels, Lynda S. Collins, Egbert Hendrik Oskamp, and Boopy Excavating, Inc. FirstBank claimed to have liens on two properties (respectively referred to as the "Commonwealth Property" and the "Caribbean Property"). FirstBank thereafter moved for summary judgment on its claims.

On July 30, 2007, the Court granted FirstBank's motion. In that ruling, the Court established the priority of the various parties' liens in both properties and ordered the sale of the properties.

Collins has mortgages on the Commonwealth Property and the Caribbean Property. Specifically, Collins has two mortgages on the Commonwealth Property, recorded on July 7, 2000, and July 9,

2001, respectively. Collins also has three mortgages on the Caribbean Property, all recorded on October 14, 2004.

Collins now contends that the Court's July 30, 2007, Judgment should be amended. Specifically, Collins asserts that while the fact section of the Judgment correctly states the mortgages Collins holds against the two properties, the section of the Judgment ordering the priority of liens neglects to reflect the mortgages recorded on October 14, 2004, as recited in the fact section.

Rule 60(a) of the Federal Rules of Civil Procedure provides:

The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

FED. R. CIV. P. 60(a). The rule "encompasses only errors mechanical in nature, apparent on the record, and not involving a substantive error in judgment." *Pfizer Inc. v. Uprichard*, 422 F.3d 124, 129-30 (3d Cir. 2005) (citing *Mack Trucks, Inc. v. Int'l Union*, 856 F.2d 579, 594 n.16 (3d Cir. 1988)).

In this matter, Collins asserts that the clerical error is in the section of the Judgment ordering the priority of liens as to the Commonwealth Property. The Court has reviewed the record

and the Judgment. While the factual recitation of the priority of liens and the date of recordation of those liens is correct, the section of the Judgment ordering the priority of liens as to the Caribbean Property states that Collins holds two such liens on the Caribbean Property, and misstates the date on which those liens were recorded. In fact, Collins holds three such liens, all recorded on October 14, 2004. The Court inadvertently ordered the priority of only two liens held by Collins and stated that those liens were recorded on October 7, 2004. Consistent with its recitation of findings in the fact section of the Judgment, the Court intended to order the priority of all three liens held by Collins against the Caribbean Property and to state that those liens were recorded on October 14, 2004.

Accordingly, pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, it is hereby

ORDERED that Collins' motion is **GRANTED**; and it is further

ORDERED that the third unnumbered paragraph on page eight of the July 30, 2007, Judgment shall read as follows:

ORDERED that FirstBank's lien covering the Caribbean Property is a first priority lien. Samuels' lien on the Caribbean Property is a second priority lien. The three liens held by Collins against the Caribbean

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Property, all recorded on October 14, 2004, are third,
fourth and fifth priority liens.

Dated: March 4, 2008

S_____
CURTIS V. GÓMEZ
Chief Judge

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